

### **REMARKS**

Claims 1, 4-7 and 27-49 are pending in this application. Applicant acknowledges the allowance of claim 44 and the allowability of dependent claims 6, 7, 36-43 and 45 if amended to independent form.

Claims 1, 4, 5, 27-33, 35 and 46-49 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by newly cited U.S. Patent No. 1,215,726 to Shew.<sup>1</sup> Applicant respectfully requests reconsideration of this rejection and the finality of this rejection.

First, this rejection was made final by the Examiner without any explanation as to the propriety of the finality of the rejection. The Shew patent was not previously cited by the Examiner or by Applicant, and there is no indication that citation of the Shew patent was necessitated by Applicant's amendments. Therefore, the finality of this rejection is improper. *See* MPEP 706.07(a).

#### **Further Claim Amendments**

Independent claim 1 has been amended to clarify the previously claimed "divergently outwardly" positioning of the slots, by specifying that the ends of the slots that are furthest from the handles are closer to one another than are the ends of the slots that are closer to the handle. Independent claim 32 has been amended to clarify the previously claimed divergent positioning of the elongate camming surfaces, by specifying that the elongate camming surfaces extend divergently away from the opening towards the elongate handle. These features are clearly visible in Figures 5 to 9 and 12 and 13 of the drawings.

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<sup>1</sup> On page 2 of the Office Action, the Examiner indicated that claim 2 was rejected. However, claim 2 was canceled. Applicant assumes that the Examiner meant claim 4 as set forth in the "Office Action Summary".

Claim 46 is dependent on claim 1 and currently specifies cam surfaces provided with respective recesses for receiving a detent member. There is no antecedent basis for cam surfaces in claim 1. Applicant has amended claim 46 to make it dependent on claim 6 and to specify that the recesses for the detent member are provided in the circumferentially spaced surfaces specified in claim 6. This feature is illustrated in Figure 12 and 13.

These amendments are proper because the finality of this office action is premature, as set forth above, and, alternatively, because the amendments present the claims in better form for consideration on appeal in view of the Examiner's citation of new prior art in this office action. 37 CFR § 1.116(b). No new matter has been added by these amendments.

### 35 U.S.C. § 102(b) Rejection

The Shew patent does not disclose, teach or suggest a drive tool that is self-tightening by the application of an input torque to an elongate handle of the tool, as recited in independent claim 1. Instead, Shew discloses a wrench that has two jaws 14, 15 that are pivotally connected at a location within an elongate handle 1 by pivot pin 13. Each jaw 14, 15 defines an elongate slot 16 and the slots house respective pins 17 that are fixed to the handle. The pivot pin 13 is fixed to a link 12 that is movable in the axial direction of the handle 1 by operation of a screw thread 10 actuated by rotation of a thumbnut 11. As the screw thread 10 is operated, the link 12 moves axially along the handle causing the jaws 14, 15 to open or close (according to the direction of movement of the link).

The Examiner states that the pins 17 of Shew are effective to close the split aperture (allegedly disclosed by Shew) and increasingly tighten a grip applied by the torque-applying surface as more torque is applied to the handle 1. It is submitted that this is incorrect. The pins

17 do not cause the gap between the jaws to close in response to the application of more torque to the handle. The gap between the jaws 14, 15 is caused to close by operation of the screw thread 10 in the link 12 causing the link to move axially along the handle.

Thus, the wrench taught by Shew does not have the self-tightening capability of the drive tool specified in claim 1. Furthermore, Shew does not disclose or suggest slots whose ends that are furthest from the handle are closer to one another than are the ends that are closer to the handle. This is exactly the opposite of what is taught by Shew and is not disclosed or suggested by Shew.

In rejecting claim 32, the Examiner simply refers to Figures 1 to 3 of the Shew patent and does not identify those parts of the disclosure of the reference that are alleged to disclose the claimed features. Claim 32 specifies a flexible head that has an internal torque-applying gripping wall defining an opening and a slot extending from the opening to an outer wall of the flexible head. It is assumed the Examiner is of the opinion the jaws 14, 15 constitute a flexible head and their internal surfaces constitute an internal torque-applying gripping wall defining an opening. If *arguendo* that allegation is taken as being correct, it is submitted that Shew clearly does not disclose the slot specified in the claim.

Additionally, claim 32 requires that the cam mechanism operates in such a way that when an input torque is applied to the elongate handle, a force that tends to close the slot is applied to the flexible head to cause the application of a gripping force by the torque-applying gripping wall. Leaving aside the absence of any disclosure by Shew of a slot that is distinct from the opening defined by the jaws 14, 15, Shew does not disclose or suggest any structure operable to close a gap in response to an input torque applied to the input handle such as to cause the application of a gripping force by the jaws. The closure of the jaws 14, 15 and their torque

applying surfaces onto an object (such as a nut or bolt) is achieved by operation of the thread 10 in the link 12 and not by the application of a torque to the handle 1. Once the jaws 14, 15 are tightened onto the object by operation of the thread 10, there is no closure of the gap between the jaws in response to the application of an input torque to the handle 1 and in the event the jaws have been insufficiently closed, the wrench will tend to slip on the object. This is an even more likely event where the object is damaged from previous tightening/release operations.

In addition to not disclosing a flexible head and cam mechanism as specified in claim 32, Shew does not disclose, teach or suggest elongate camming surfaces that extend divergently away from an opening of the flexible head towards the elongate handle 1. The slots 16 disclosed by Shew extend divergently away from the elongate handle and so diverge in the opposite direction to the claimed camming surfaces. It is, therefore, submitted that Shew cannot be considered as disclosing or suggesting camming surfaces that extend divergently in the opposite direction, much less camming surfaces that operate in the manner specified in the claim.

Claims 4-7, 27-31 and 45-49 depend from claim 1, and claims 33-43 depend from claim 32, and are believed patentable over Shew for the same reasons set forth above.

**CONCLUSION**

For the foregoing reasons, Applicant submits that claims 1, 4-7 and 27-49 are patentable over the prior art, and in condition for allowance.

No fees are required by this paper.

Dated: May 7, 2008

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